

6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R04-OAR-2018-0064; FRL-9988-81-Region 4]**

#### **Air Plan Approval; Georgia: Permit Exemption for Fire Fighting Equipment**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) is proposing to approve two revisions to the Georgia State Implementation Plan (SIP), submitted by the State of Georgia, through the Georgia Environmental Protection Division (Georgia EPD), with two letters dated November 13, 2017, and July 31, 2018. Specifically, EPA is proposing to approve changes that revise existing exemptions for firefighting equipment. EPA is proposing to approve this SIP revision because the Agency believes that it is consistent with the Clean Air Act (CAA or Act).

**DATES:** Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2018-0064 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment

and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Andres Febres, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8966. Mr. Febres can also be reached via electronic mail at [febres-martinez.andres@epa.gov](mailto:febres-martinez.andres@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. What action is the Agency proposing?**

Through a letter dated November 13, 2017, Georgia EPD submitted a SIP revision for EPA's approval that included several miscellaneous rule amendments.<sup>1</sup> Specifically, the November 13, 2017, SIP revision included changes to Georgia's Air Quality Control Rule 391-3-1-.01 – "Definitions," Rule 391-3-1-.02(4) – "Ambient Air Standards," Rule 391-3-1-.02(7) – "Prevention of Significant Deterioration of Air Quality," Rule 391-3-1-.03(6) – "Exemptions," Rule 391-3-1-.03(8) – "Permit Requirements," and Rule 391-3-1-.03(10) – "Title V Operating Permits."

Through an additional letter dated July 31, 2018, Georgia EPD submitted several SIP revisions that included some miscellaneous rule amendments.<sup>2</sup> Specifically, the July 31, 2018,

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<sup>1</sup> EPA notes that the Agency received this submittal on November 29, 2017.

<sup>2</sup> EPA notes that the Agency received this submittal on August 2, 2018.

SIP revisions included changes to Georgia's Air Quality Control Rule 391-3-1-01 – “Definitions,” Rule 391-3-1-.02(2)(c) – “Incinerators,” Rule 391-3-1-.02(4) – “Ambient Air Standards,” Rule 391-3-1-.02(12) – “Cross State Air Pollution Rule NO<sub>x</sub> Annual Trading Program,” Rule 391-3-1-.02(13) – “Cross State Air Pollution Rule SO<sub>2</sub> Annual Trading Program,” Rule 391-3-1-.02(14) – “Cross State Air Pollution Rule NO<sub>x</sub> Ozone Season Trading Program,” Rule 391-3-1-.03(6) – “Exemptions,” Rule 391-3-1-.03(11) – “Permit by Rule,” Rule 391-3-1-.03(10) – “Title V Operating Permits,” Rule 391-3-1-.11 – “Small Business Assistance Administration,” and Rule 391-3-1-.12 – “Duties of the Small Business Ombudsman Office.”

Through this proposed rulemaking, EPA is only proposing to approve changes to Rule 391-3-1-.03(6), which addresses exemptions for firefighting equipment from minor new source review (NSR) requirements. EPA is considering and taking action on the other July 31, 2018, SIP revisions involving the remaining changes to Georgia's Air Quality Control Rules through other rulemaking. Additional detail on Georgia's November 13, 2017, and July 31, 2018, SIP revisions and EPA's reasoning for proposing to approve the aforementioned changes is presented below.

## **II. Analysis of the State's submittal**

In this action, EPA is proposing to approve these revisions by proposing to find that they are consistent with the flexibility traditionally afforded to states in designing their minor NSR programs and are not otherwise prohibited by EPA's federal minor NSR program requirements. Under section 110(a)(2)(C) of the Act — and EPA's implementing regulations at 40 CFR 51.160-164 — each SIP must include a program to regulate the construction and modification of

stationary sources, including so-called “minor sources.”<sup>3</sup> The purpose of this program is to ensure that each SIP sets forth legally enforceable procedures that enable the state to determine whether the construction or modification of a source would result in a violation of applicable portions of the control strategy or would interfere with attainment or maintenance of a National Ambient Air Quality Standard (NAAQS). *See* 40 CFR 51.160(a). However, the federal requirements for minor source programs are considerably less prescriptive than those for major sources, allowing the states flexibility to identify the types and sizes of sources that will be subject to the program’s review requirements, and the discretion to exempt certain de minimis sources whose emissions are too insignificant to impact attainment or maintenance of a NAAQS. *See* 40 CFR 51.160(e).

Georgia currently has a SIP-approved program for regulating the construction or modification of minor sources at Rule 391-3-1-.03. The rule also includes exemptions from the minor NSR requirements, found at section (6) of the rule, which includes an exemption for combustion equipment related to training of fire fighters. Specifically, Georgia’s current SIP provides an exemption from construction permit requirements for “Fire fighter or other emergency/safety equipment used to train fire fighters.” *See* Rule 391-3-1-.03(6)(b)(13).<sup>4</sup> However, the exemption does not allow the source category to avoid any other applicable requirement, as that term is defined in 40 CFR 70.2. *See* Rule 391-3-1-.03(6).

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<sup>3</sup> A minor source is a source whose potential to emit is lower than the major source applicability threshold for a particular pollutant as defined in the applicable nonattainment major NSR program or Prevention of Significant Deterioration program.

<sup>4</sup> The provision would also exempt these sources from operating permit requirements. Because minor source operating permits are not a required element of a SIP under the Act, however, we do not address that aspect of the proposed change.

Georgia EPD's November 13, 2017, and July 31, 2018, SIP revisions request that EPA revise the existing exemption for firefighting equipment. First, in its November 13, 2017, revision, Georgia EPD amends the exemption language to explicitly include fire pumps, by revising the language to state: "Fire fighting equipment including fire pumps or other emergency/safety equipment used to train fire fighters." Additionally, in its July 31, 2018, revision, Georgia EPD further revises the exemption to include equipment used for firefighting or training by either firefighters or other emergency personnel. Specifically, the revised exemption states: "Firefighting equipment, including fire pumps or other emergency/safety equipment, used to fight fires or train firefighters or other emergency personnel." Georgia states that these revisions clarify its existing interpretation of the exemption.

As noted above, the Act — as well as EPA's implementing regulations at 40 CFR 51.160-164 — provides states flexibility in establishing approvable minor NSR programs, including the discretion to exempt certain de minimis sources whose emissions are too insignificant to impact attainment or maintenance of a NAAQS. In this case, EPA believes the exemption of fire pumps and other emergency/safety equipment used for fighting fires from the minor source construction permit requirements would be de minimis (or insignificant) for the reasons described below and as a result, EPA is proposing to find that the revisions are approvable and consistent with the federal minor source regulations at 40 CFR 51.160-164.

In addition, EPA is proposing to find that, under CAA 110(l), the exclusion of fire pumps and other emergency/safety firefighting equipment from minor NSR permitting will not interfere with attainment or maintenance of any NAAQS or with any other applicable requirement of the Act. Such non-interference is based on EPA's belief that any emissions increases that may result

from the exclusion of fire pumps and other emergency/safety firefighting equipment from minor NSR permitting requirements would be de minimis or insignificant. This belief is based upon the nature and use of such equipment. For example, fire pumps are only operated in two time-limited circumstances: (1) for testing and maintenance; and (2) during emergency situations, for the purpose of putting out a fire. While testing and maintenance may be periodic and routine, operation of the pumps during those times would be limited. Similarly, operation of fire pumps during a fire emergency would also be time-limited and would present an even more infrequent, unusual operational circumstance. Furthermore, to the extent a fire pump may be used for emergency firefighting purposes, such use would likely aid in the overall reduction of air pollutant emissions associated with fires, such as particulate matter emissions. Finally, EPA notes that while fire pumps may be excluded from minor source permitting requirements, they remain subject to any other applicable federal requirements.<sup>5</sup>

As for the revised exemption language concerning other emergency/safety equipment used to fight fires or train fire fighters or other emergency personnel, EPA believes such use would also be time-limited and any emissions increases associated with its exclusion from minor source permitting requirements would also be insignificant. For these reasons, EPA is proposing to approve these revisions and is proposing to find that they are consistent with the CAA, including 110(l), and with federal regulations.

### **III. Incorporation by Reference**

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<sup>5</sup> EPA notes that fire pumps may be subject to federal New Source Performance Standards at 40 CFR part 60, Subpart IIII, and/or National Emissions Standards for Hazardous Air Pollutants at 40 CFR part 63, subpart ZZZZ. These standards restrict the emissions of subject engines based on size and age, and limit non-emergency operation to less than 100 hours per year.

In this document, EPA is proposing to include in a final EPA rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference a portion of Georgia EPD's Rule 391-3-1-.03 – "Permits," specifically section (6) – "Exemptions," which became state effective July 23, 2018. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

#### **IV. Proposed Action**

EPA is proposing to approve Georgia EPD's November 13, 2017, and July 31, 2018, SIP revisions. Specifically, EPA is proposing to approve these SIP revisions that modify Georgia's Rule 391-3-1-.03(6). The proposed changes exempt fire pumps and other equipment used by firefighters and other emergency personnel to fight fires from the Act's preconstruction review requirement. EPA believes that any air quality impacts from these activities are de minimis, and will often lead to net emissions reductions by mitigating or eliminating the air quality impacts of uncontrolled fires. EPA is proposing to approve these SIP revisions because the Agency has determined that they are consistent with the CAA, and would not interfere with attainment or maintenance of any NAAQS, reasonable further progress, or any other applicable requirement.

#### **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely proposes to approve state

law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: December 17, 2018.

Mary S. Walker,

Acting Regional Administrator,

Region 4.

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